

## Message Text

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ORIGIN JUSE-00

INFO OCT-01 EA-10 ISO-00 SSO-00 L-03 CIAE-00 INR-10  
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DRAFTED BY JUSTICE:TBADAMSON:CSA  
APPROVED BY EA-W. CHAMBERLIN  
-----008826 140135Z /75  
O 140101Z JUL 78  
FM SECSTATE WASHDC  
TO AMEMBASSY CANBERRA IMMEDIATE

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E.O. 11652: NA

TAGS: OVIP (BELL, GRIFFIN)

SUBJECT: MESSAGES FOR ATTORNEY GENERAL BELL

1. ATTORNEY GENERAL OF ENGLAND HAS CALLED CONCERNING YOUR  
AND HIS JOINT APPEARANCE AT ABA LUNCHEON ON AUGUST 8. HE  
WOULD LIKE HIS SUBJECT MATTERS TO TIE IN WITH SUBJECT  
MATTERS OF JUDGE BELL. FOR OUR OWN PREPARATIONS AND TO  
ADVISE ATTORNEY GENERAL OF ENGLAND AT EARLIEST POSSIBLE  
DATE, COULD YOU PLEASE ADVISE ON JUDGE BELL'S THOUGHTS  
AND IDEAS FOR THIS SPEECH APPEARANCE. MANY THANKS FOR  
YOUR ASSISTANCE.

2. PAUL CONNOLLY DIED SUDDENLY THIS (WEDNESDAY) MORNING  
OF A HEART ATTACK WHILE DRESSING FOR WORK. HIS BODY WILL  
BE VIEWED FRIDAY; FUNERAL IS SCHEDULED FOR SATURDAY. HE  
WAS 56 AND WAS TO TESTIFY BEFORE OUR ANTI-TRUST COMMISSION.  
PLEASE ADVISE IF JUDGE BELL DESIRES TO SEND FLOWERS,  
MESSAGE, OR OTHERWISE AS APPROPRIATE.  
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3. PLEASE ADVISE AS TO ANY CHANGE IN PREPARED TEXT OF  
VARIOUS AUSTRALIA SPEECHES. OTHERWISE, WE WILL RELEASE  
AFTER AUSTRALIA DELIVERY IN FORM WE HAVE. THE DEPARTMENT  
OF STATE HAS EXPRESSED GREAT INTEREST AND ENTHUSIASM FOR  
PARTS OF HUMAN RIGHTS SPEECH CONCERNING SOVIET TRIALS.

4. A DRAFT PRESS RELEASE FOLLOWS ANNOUNCING THE DECISION NOT TO PROSECUTE IN THE SANTOS RODRIGUEZ CASE. COULD JUDGE BEEL PLEASE REVIEW AND MODIFY AS DESIRED AND GIVE FINAL APPROVAL FOR RELEASE:

BEGIN QUOTE: ATTORNEY GENERAL GRIFFIN B. BELL ANNOUNCED TODAY THAT HE HAS DECIDED AGAINST FEDERAL PROSECUTION OF

FORMER DALLAS POLICE OFFICER, DARREL CAIN, FOR THE SHOOTING DEATH OF SANTOS RODRIGUEZ ON JULY 24, 1973. CAIN WAS CONVICTED IN A DALLAS COURT OF MURDER WITH MALICE ON NOVEMBER 16, 1973, AND WAS SENTENCED TO FIVE YEARS IN PRISON WHICH HE IS NOW SERVING.

AFTER AN EXHAUSTIVE REEXAMINATION OF THE RODRIGUEZ CASE BY THE CIVIL RIGHTS DIVISION, THE DIVISION RECOMMENDED AGAINST FEDERAL DUAL PROSECUTION TO THE ATTORNEY GENERAL. THE DECISION WAS CONCURRED IN BY ASSISTANT ATTORNEY GENERAL DREW S. DAYS, III, WHO HEADS THE CIVIL RIGHTS DIVISION. AFTER PERSONAL REVIEW OF THE CASE, THE ATTORNEY GENERAL AGREED WITH THIS RECOMMENDATION AGAINST FEDERAL DUAL PROSECUTION. THE DECISION WAS ALSO CONCURRED IN BY DEPUTY ATTORNEY GENERAL BENJAMIN R. CIVILETTI, AFTER HIS OWN PERSONAL REVIEW OF THE CASE.

BECAUSE OF THE LIMITED AND SOMEWHAT DISFAVORED POLICY LIMITED OFFICIAL USE

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TOWARD DUAL PROSECUTIONS OF THE SUPREME COURT, THE DEPARTMENT OF JUSTICE PERMITS SUCH DUAL PROSECUTIONS ONLY WHERE "NECESSARY TO ADVANCE COMPELLING INTERESTS OF FEDERAL LAW ENFORCEMENT." ALTHOUGH THE SENSELESSNESS OF THE CRIME AND THE YOUTHFULNESS OF THE VICTIM IN THIS CASE HAS FOCUSED CONSIDERABLE PUBLIC ATTENTION ON THE CASE AND HAS MADE THE DECISION PARTICULARLY DIFFICULT, MR. BELL SAID THERE WERE TWO MAIN FACTORS THAT LEAD TO THE DECISION AGAINST A DUAL PROSECUTION IN THIS CASE:

-- THE STATE PROSECUTION OF CAIN WAS JUST, PROMPT AND VIGOROUS AND RESULTED IN A JURY CONVICTION OF THE HIGHEST DEGREE OF MURDER AND A JURY-SET JAIL SENTENCE INVOLVING HIS COMMITMENT TO THE TEXAS STATE PENITENTIARY FOR A SUBSTANTIAL TERM OF YEARS.

-- THE TIME THAT HAS LAPSED SINCE THE STATE CONVICTION AND THE PRE-INDICTMENT DELAY RAISED A NUMBER OF PARTICULAR LEGAL PROBLEMS.

THE JUSTICE DEPARTMENT HAD INVESTIGATED THE RODRIGUEZ CASE IN 1973 AT THE TIME OF THE KILLING, BUT THE FILE WAS

CLOSED ON DECEMBER 12, 1973, SUBSEQUENT TO THE SUCCESSFUL STATE PROSECUTION, IN ACCORD WITH THE THEN EXISTING DUAL PROSECUTION POLICY. THAT POLICY PROHIBITED ON GROUNDS OF FAIRNESS AND COMITY THE FEDERAL PROSECUTION OF AN INDIVIDUAL IF A SUCCESSFUL PROSECUTION FOR THE SAME CRIME HAD TAKEN PLACE. CIRCUMSTANCES RAISED DUE PROCESS PROBLEMS; AND WHETHER A FEDERAL PROSECUTION WOULD BE CONSISTENT WITH THE SUPREME COURT DECISIONS APPROVING DUAL PROSECUTIONS IN A CERTAIN LIMITED CLASS OF CASES. WHILE NONE OF THOSE LEGAL ISSUES ALONE PREVENTED A DUAL PROSECUTION IN THIS CASE, THEY COLLECTIVELY RAISED QUESTIONS OF THE FAIRNESS AND WISDOM OF SUCH A COURSE, MR. BELL SAID.

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THE ATTORNEY GENERAL SAID THE DECISION NOT TO PROSECUTE IN THIS CASE SHOULD NOT BE SEEN BY ANYONE AS OTHER THAN STRICTLY A LEGAL DECISION ON THIS CASE ALONE. HE STRESSED THAT THE DEPARTMENT OF JUSTICE CONTINUED ITS COMMITMENT TO THE USE OF DUAL PROSECUTIONS, WHERE NECESSARY, TO ENFORCE AND PROTECT THE CIVIL RIGHTS OF HISPANICS AND OTHER PEOPLES, AND HE REAFFIRMED HIS PUBLIC STATEMENT OF JUNE 20, 1978, THAT "THE DEPARTMENT OF JUSTICE WILL GIVE RENEWED EFFORT AND PRIORITY TO ELIMINATING POLICE BRUTALITY AGAINST HISPANIC AMERICANS AND OTHERWISE ASSURING THEM THEIR RIGHTS AND DIGNITY THROUGH NATIONAL LEADERSHIP, EMPHASIS ON TRAINING, DEVELOPING SENSITIVITY TO RACE PROBLEMS, AND BY VIGOROUS INVESTIGATION AND PROSECUTION WHERE INDICATED. END QUOTE CHRISTOPHER

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